

plan is adopted or within the succeeding taxable year and which meets the requirements of subsection (b) of section 346 falls within paragraph (a)(2) of this section and within section 346(a)(2). The requirements which a distribution must meet to fall within subsection (b) of section 346 are:

(1) Such distribution is attributable to the corporation's ceasing to conduct, or consists of assets of, a trade or business which has been actively conducted throughout the five-year period immediately before the distribution, which trade or business was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part, and

(2) Immediately after such distribution by the corporation it is actively engaged in the conduct of a trade or business, which trade or business was actively conducted throughout the five-year period ending on the date of such distribution and was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

A distribution shall be treated as having been made in partial liquidation pursuant to section 346(b) if it consists of the proceeds of the sale of the assets of a trade or business which has been actively conducted for the five-year period and has been terminated, or if it is a distribution in kind of the assets of such a business, or if it is a distribution in kind of some of the assets of such a business and of the proceeds of the sale of the remainder of the assets of such a business. In general, a distribution which will qualify under section 346(b) may consist of, but is not limited to:

(i) Assets (other than inventory or property described in subdivision (ii) of this subparagraph) used in the trade or business throughout the five-year period immediately before the distribution (for this purpose an asset shall be considered used in the trade or business during the period of time the asset which it replaced was so used), or

(ii) Proceeds from the sale of assets described in subdivision (i) of this subparagraph, and, in addition,

(iii) The inventory of such trade or business or property held primarily for

sale to customers in the ordinary course of business, if:

(a) The items constituting such inventory or such property were substantially similar to the items constituting such inventory or property during the five-year period immediately before the distribution, and

(b) The quantity of such items on the date of distribution was not substantially in excess of the quantity of similar items regularly on hand in the conduct of such business during such five-year period, or

(iv) Proceeds from the sale of inventory or property described in subdivision (iii) of this subparagraph, if such inventory or property is sold in bulk in the course of termination of such trade or business and if with respect to such inventory the conditions of subdivision (iii)(a) and (b) of this subparagraph would have been met had such inventory or property been distributed on the date of such sale.

(c) *Active conduct of a trade or business.* For the purpose of section 346(b)(1), a corporation shall be deemed to have actively conducted a trade or business immediately before the distribution, if:

(1) In the case of a business the assets of which have been distributed in kind, the business was operated by such corporation until the date of distribution, or

(2) In the case of a business the proceeds of the sale of the assets of which are distributed, such business was actively conducted until the date of sale and the proceeds of such sale were distributed as soon thereafter as reasonably possible.

The term *active conduct of a trade or business* shall have the same meaning in this section as in paragraph (c) of § 1.355-1.

§ 1.346-2 Treatment of certain redemptions.

If a distribution in a redemption of stock qualifies as a distribution in part or full payment in exchange for the stock under both section 302(a) and this section, then only this section shall be applicable. None of the limitations of section 302 shall be applicable to such redemption.